

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Kendall Green,

Plaintiff,

v.

Larry Cartledge, Warden; Sgt. Daniel Cotter,
Contraband Officer; Major Early; and
William R. Byars, Director,

Defendants.

Civil Action No.2:13-2426-MGL

OPINION AND ORDER

Plaintiff Kendall Green (“Plaintiff”), a state inmate proceeding pro se, filed this action on September 9, 2013 against Larry Cartledge, Warden; Sgt. Daniel Cotter, Contraband Officer; Major Early; and William R. Byars, Director (“Defendants”) pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. (ECF No.1.) This matter is now before the Court upon the Magistrate Judge’s Report and Recommendation filed on June 2, 2014, recommending this case be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure on the grounds that Plaintiff failed to comply with this Court’s orders. (ECF No. 33.) More specifically, Plaintiff failed to comply with this Court’s orders of February 3, 2014 and May 7, 2014. (ECF Nos. 23 & 31) directing Plaintiff to respond to Defendants’ motion for summary judgment filed on February 3, 2014. (ECF No. 22.)

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to a United States Magistrate Judge for pretrial handling. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court may accept, reject, or modify, in whole or in part, the Report and

Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made. Plaintiff was advised of his right to file objections to the Report and Recommendation and the possible serious consequences if he failed to respond. (ECF No 23.) However, he has not done so and objections were due on June 19, 2014. In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir.2005).

In light of the above standard, and after a careful review of the record, the applicable law, and the Report and Recommendation, the Court finds no clear error. Finding the Magistrate Judge’s recommendation to be proper, the Report and Recommendation is incorporated herein by reference and this action is DISMISSED pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

/s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
June 23, 2014